THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 20423 OF 2003

DATED: 03-08-2005

Between

1. A.A. Nayeem, S/o A.A. Quayyum,
   Aged about 56 years, Occupation: Business,
   R/o. H.No. 12-2-831/36, MIGH Colony,

Mehdipatnam, Hyderabad and others.

..... PETITIONERS

And

The Tax Recovery Office – Range II,

Income Tax Department, 5th Floor,

Ayaakar Bhavan, Basheer Bagh,

Hyderabad.

..... RESPONDENT

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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 20423 OF 2003

ORDER: (per Sri B. Sudershan Reddy, J)

The petitioners in this writ petition challenge the proceedings of the Tax Recovery Officer – Range II, Hyderabad
dated 19-09-2003.

The petitioners submitted their representation/objection petition on 22-08-2003 *inter alia* contending that the auction of the property in question is required to be stayed and the attachment order is to be lifted inasmuch as they have purchased the property in question scheduled for public auction on 03-09-2003. Their contention was that they have purchased the schedule property from the owners and got the document registered as early as on 10-04-2001 and 18-04-2001. They are not aware of the factum of the attachment of the properties by the Income Tax Department against the dues payable by the Company M/s. Koratla Builders India

Limited admittedly from whom they purchased the property. It was contended that the notice of attachment published earlier on 25-09-2000 as well as on 02-08-2003 were not noticed by them. They have also contended that the agreement of sale was entered into between the parties in the year 1997.

The Tax Recovery Officer on critical assessment of the material available on record found that the agreements alleged to have been entered in the year 1997 even prior to the date of attachment are not believable inasmuch as the documents were not registered and in the absence of registration, they cannot be treated as public documents. Regarding the contention that the petitioners are not aware of the publication of notice of declaration and attachment in the newspapers, the Tax Recovery Officer held that the petitioners are aware that the company has to pay the tax arrears of Rs.3,00,000/- even as on the date of execution of the registered sale deed. Having regard to the facts, the Tax Recovery Officer found no merit in the application.

In this writ petition, learned counsel for the petitioners, Sri D. Srinivas more or less repeated the same contentions and submitted that the petitioners are the *bona fide* purchasers of the property.

It is needless to observe that once the property is attached under the provisions of the Income Tax Act, 1961 and the Rules framed thereunder, the attached property cannot be alienated or parted away by the defaulters. The petitioners purchase, even under the registered sale deed, after the date of publication of notice is of no consequence. That at any rate, the petitioners are not precluded from proceeding against the vendors and seek appropriate relief as against them.

We find no merit in this writ petition and the same shall accordingly stand dismissed.

(B. Sudershan Reddy, J)

03..08..2005

(Ramesh Ranganathan, J)

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